

### **REMARKS**

1) **Summary of the Office Action**

Claims 1 to 32 were pending in this case.

By the office action mailed October 4, 2005:

- (a) claims 1 to 4 were rejected under 35 USC 102 in view of USP 5,403,095 of Melk.
- (b) claim 7 was rejected under 35 USC 103 as being obvious given USP 5,403,095 of Melk in view of USP 4,050,264 of Tanaka;
- (c) claims 10 to 12, 15 and 17 were rejected under 35 USC 103 as being obvious given Melk in view of Tanaka;
- (d) claims 18 to 21 were rejected under 35 USC 102 given Melk;
- (e) claims 22 to 24 and 26 and 27 were rejected under 35 USC 103 given Melk in view of Tanaka; and
- (f) claim 32 was rejected under 35 USC 102 as anticipated by Tanaka.

Claims 29 to 31 stand allowed.

Claims 5, 6, 8, 9, 13, 14, 16, 25 and 28 were objected to as being dependant upon a rejected base claim, but allowable if rewritten in independent form.

2) **Melk**

Melk has been cited as an anticipatory reference in claims 1 to 4, 18 to 21. Melk has also been cited as the primary reference in the rejections of claims 7, 10 to 12, 15, 17, 22 to 24, 26 and 27.

The applicant notes that Melk does not include a closure member including a stiffened member operable to engage the land of the receptacle in an interference fit. In that regard, the applicant draws the Examiner's attention to Melk Fig. 3. Melk's closure member is the lid or cover portion, **30**, which does not engage Melk's receptacle, (identified by Melk as liner member **24**), in an interference condition.

Furthermore, Melk's cover **30** consists of an outer skin, identified as top side **66**, an inner skin, identified as bottom side **68**, and a layer of insulating material **46** captured between the top side and bottom side **66** and **68**. There is no indication in Melk that any of items **46**, **66** or **68** is a stiffened member. Therefore the applicant respectfully submits that the Melk reference does not provide grounds for a rejection under 35 USC 102 in respect of any of claims 1 to 4, or 18 to 21.

In terms of rejections made under 35 USC 103, the Manual of Patent Examining Procedure (MPEP) § 2142 requires that the references cited must disclose all of the features of claim, must demonstrate a reasonable chance of success, and must demonstrate motivation, suggestion or incentive to combine the references. The applicant notes that the features missing from the Melk reference with respect to the rejections for anticipation under 35 USC 102 are also missing in terms of the rejections made under 35 USC 103. Therefore the Applicant respectfully submits that *prima facie* grounds for rejection of claims 7, 10 to 12, 15, 17, 22 to 24, 26 and 27 have not been established.

The Applicant therefore respectfully requests that the rejections of all of these claims 1 to 4, 7, 10 to 12, 15, 17 to 24, 26 and 27 be reconsidered and withdrawn. The Applicant respectfully submits that all of the foregoing claims are presently in a condition for allowance.

3) Tanaka

Claim 32 has been rejected under 35 USC 102 in view of USP 4,050,264 of Tanaka.

The Applicant respectfully submits that the Tanaka reference does not have a port by which to introduce a thermal storage medium liquid into the hollow body and does not have a closure member operable to control access to the hollow body.

Furthermore, Tanaka does not appear to have an engagement fitting operable to mate the thermal storage element with the thermal storage retention apparatus and does not appear to have a thermal storage retention apparatus.

In that light, the Applicant respectfully submits that the Tanaka reference does not establish grounds for a rejection of claim 32 under 35 USC 102. The Applicant therefore respectfully requests reconsideration of the rejection and allowance of the claim.

4) Amendments to Claims

Claim 29 has been amended to correct a self-evident spelling mistake. Claim 32 has been amended to delete the word "removeable".

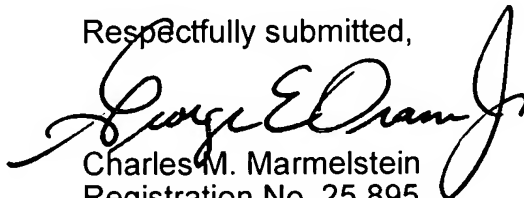
5) Conclusion

The Applicant respectfully submits that all of claims 1 to 32 presently pending in the case are a condition for allowance. The Applicant therefore respectfully requests an early and favourable disposition of this matter.

If for any reason the Examiner feels the application is not now in condition for allowance it is respectfully requested that he contact, by telephone, the undersigned attorney at the indicated telephone number to arrange for an interview to expedite the disposition of this case.

In the event that any fees are due with respect to this paper, please charge Deposit Account No. 01-2300, referencing Atty. Docket No. 027699-00003.

Respectfully submitted,

  
Charles M. Marmelstein  
Registration No. 25,895  
27931

Atty. Docket No.: 027699-00001

Customer No. 004372  
Arent Fox PLLC  
1050 Connecticut Avenue, N.W.  
Suite 400  
Washington, D.C. 20036-5339  
Tel (202) 857-6000  
Fax (202) 638-4810

CMM:mmg